

BEFORE THE ADJUDICATING OFFICER
SECURITIES AND EXCHANGE BOARD OF INDIA

[ADJUDICATION ORDER NO. PKB/AO - 59/2009]

**UNDER SECTION 15-I OF SECURITIES AND EXCHANGE BOARD OF
INDIA ACT, 1992 READ WITH RULE 5 OF SEBI (PROCEDURE FOR
HOLDING INQUIRY AND IMPOSING PENALTIES BY ADJUDICATING
OFFICER) RULES, 1995**

In respect of
Riki Rajnikant Bhansali
(PAN. AFTPB2585H)

In the matter of: Nissan Copper Limited

BACKGROUND

1. Nissan Copper Limited (hereinafter referred as “NCL”) came out with an Initial Public Offer (hereinafter referred to as “IPO”) in a price band of Rs. 33 to Rs. 39 during the period of December 04 – 08, 2006. The issue was over-subscribed 5.25 times and the issue price was finalized at Rs. 39. The shares of NCL were listed on BSE and NSE on December 29, 2006. The Subscription details of Nissan Copper Limited are as follows:

Company	Issue Size	Overall Subscription Ratio	Retail	HNI	QIB
Nissan Copper Limited	64.10 lakh shares	5.25 times	4.28 times	20.23 times	1.51 times

2. Securities and Exchange Board of India (hereinafter referred to as “SEBI”) conducted investigation in the scrip of NCL. It was observed from the list of retail allotees that 303 entities had the surname Bhansali. Out of this about 288 entities have given one among 5 different addresses from Ahmedabad. 28 allotees (Purvi, Navya and Varun Bhansali in different name combinations) had given the same PAN number. 17 allotees had the name Yogesh M Bhansali with the same PAN number and 16 allotees had the name Yogesh M Bhansali HUF with another PAN number. It was

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observed that these allotees applied in different name combinations to garner more number of shares under the retail category. It was also observed from the off-market transactions that these allotees were connected to each other and a few who had subsequently sold their shares in the market are given below:

Client Name	Client Address	Sell Rate	Net Sold Qty	Value of Net Sales	Diff. of Issue & Sale price	Notional Profit
JYATSHNABEN BHANSALI	101,SHAKUNTAL APPT.,OPP.C.N.VIDYALAYA,AMBAWADI,,AHMEDABAD,GUJARAT,380006	66.40	7176	476486.4	27	196622.4
BEENABEN BHANSALI	101,SHAKUNTAL APPT.,OPP.C.N.VIDYALAYA,AMBAWADI,,AHMEDABAD,GUJARAT,380006	66.40	6877	456632.8	27	188429.8
YOGESH BHANSALI	101,SHAKUNTAL APPT.,OPP.C.N.VIDYALAYA,AMBAWADI,,AHMEDABAD,GUJARAT,380006	69.48	6578	457063.4	30	200521.4
PURVIBEN BHANSALI	101,SHAKUNTAL APPT.,OPP.C.N.VIDYALAYA,AMBAWADI,,AHMEDABAD,GUJARAT,380006	93.06	6578	612144	54	355602
RAJNIKANT BHANSALI	101,SHAKUNTAL APPT.,OPP.C.N.VIDYALAYA,AMBAWADI,,AHMEDABAD,GUJARAT,380006	66.40	5980	397072	27	163852
RIKI BHANSALI	101,SHAKUNTAL APPT.,OPP.C.N.VIDYALAYA,AMBAWADI,,AHMEDABAD,GUJARAT,380006	94.40	5980	564512	55	331292
RAJNIKANT BHANSALI, HUF	101,SHAKUNTAL APPT.,OPP.C.N.VIDYALAYA,AMBAWADI,,AHMEDABAD,GUJARAT,380006	94.40	5980	564512	55	331292
PIYUSH BHANSALI	101,SHAKUNTAL APPT.,OPP.C.N.VIDYALAYA,AMBAWADI,,AHMEDABAD,GUJARAT,380006	66.40	5681	377218.4	27	155659.4
FAIRY BHANSALI	A-601,CHANDANBALA APPT.,PALDI,,AHMEDABAD,GUJARAT,380007	92.57	5382	498212.1	54	288314.1
YOGESH BHANSALI, HUF	101,SHAKUNTAL APPT.,OPP.C.N.VIDYALAYA,AMBAWADI,,AHMEDABAD,GUJARAT,380006	94.40	5083	479835.2	55	281598.2
MEENA SHAH	U-1,SAKAL APPT.,NARANPURA,AHMEDABAD,GUJARAT,380013	106.17	4942	524695.8	67	331957.8
VISHAL BHANSALI	101,SHAKUNTAL APPT.,OPP.C.N.VIDYALAYA,AMBAWADI,,AHMEDABAD,GUJARAT,380006	76.00	4784	363584	37	177008
PIYUSH BHANSALI, HUF	101,SHAKUNTAL APPT.,OPP.C.N.VIDYALAYA,AMBAWADI,,AHMEDABAD,GUJARAT,380006	94.40	4784	451609.6	55	265033.6

- Statement of Shri Yogesh Bhansali was recorded on May 14, 2007. He appeared on behalf of 19 entities of his family who had applied in the IPO of the company. It was observed from the statement of Shri Yogesh Bhansali that Yogesh Bhansali Group had applied 304 applications on behalf of 19 applicants. It was further observed that this process of making multiple applications using different combinations of name and address was to disguise and escape weeding out of multiple applications by the Registrar to the Issue.

APPOINTMENT OF AO

4. The Whole Time Member in exercise of the powers conferred upon him under Section 15I and section 19 of the SEBI Act, 1992 read with Rule 3 of SEBI (Procedures for Holding Enquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred as “Adjudicating Rules”) vide order dated January 17, 2008 appointed Shri D S Reddy to enquire into and adjudge under Section 15I of the SEBI Act, 1992. Pursuant to the transfer of Shri. D. S Reddy I have been appointed as Adjudicating Officer vide order dated December 10, 2008.

NOTICE, REPLY & PERSONAL HEARING

5. A Show Cause Notice (hereinafter referred as ‘SCN’) dated May 02, 2008 under Rule 4(1) of SEBI (Procedures for Holding Enquiry and Imposing Penalties by Adjudicating Officer) Rules, 1995 (hereinafter referred as “Adjudicating Rules”) was issued to the noticee.
6. It has been alleged that Riki Rajnikant Bhansali (hereinafter referred to as “the noticee”) along with other family members and HUFs had made multiple applications as Retail Individual Investor, using different combination of name and address to disguise and escape weeding out of multiple applications by the Registrar to the Issue. Details of the applications made and shares allotted are as follows:

RTA S.No	Name	Shares Applied	Shares Allotted	PAN	Address
2070	Bhansali Riki	1280	299	AFIPB2585H	101 Shakuntal Appartment Opp C N School Ambawadi Ahmedabad 380006
2084	Riki R Bhansali	1280	299	AFIPB2585H	27 New Market O/S Raipur Gate Ahmedabad 380002
2098	Riki Rajnikant	1280	299	AFIPB2585H	A/601, Chandanbala Appts. Opp-Suvidhya Shopping Centre Paldi Ahmedabad 380007
2103	Rikiben R Bhansali	1280	299	AFIPB2585H	A/601, Chandanbala Appts. Opp-Suvidhya Shopping Centre Paldi Ahmedabad 380007
2149	Riki Rajnikant Bhansali	1280	299	AFIPB2585H	27 New Market O/S Raipur Gate Ahmedabad 380002
2161	Bhansali Riki R	1280	299		27,First Floor, New Cloth Market O\S Raipur Gate Ahmedabad 380002
2168	Riki R Bhansali	1280	299	AFIPB2585H	901 Shakuntal Appartment Ambavadi Ahmedabad 380006
2177	R R Bhansali	1280	299	AFIPB2585H	27 New Market O/S Raipur Gate Ahmedabad 380002
2194	Bhansali Riki R	1280	299	AFIPB2585H	27 New Market O/S Raipur Gate Ahmedabad 380002
2204	Riki Rajnikant	1280	299	AFIPB2585H	101 Shakuntal Appartment Opp C N School Ambawadi Ahmedabad 380006
2218	Bhansali Riki R	1280	299	AFIPB2585H	A/601, Chandanbala Appts. Opp-Suvidhya Shopping Centre Paldi Ahmedabad 380007
2275	Riki R	1280	299	AFIPB2585H	A/601, Chandanbala Appts. Opp-Suvidhya Shopping Centre Paldi Ahmedabad 380007
2284	Rikiben R Bhansali	1280	299	AFIPB2585H	27 New Market O/S Raipur Gate Ahmedabad 380002
2299	Bhansali R R	1280	299	AFIPB2585H	A/601, Chandanbala Appts. Opp-Suvidhya Shopping Centre Paldi Ahmedabad 380007
2303	Bhansali Riki	1280	299	AFIPB2585H	A/601, Chandanbala Appts. Opp-Suvidhya Shopping Centre Paldi Ahmedabad 380007
2320	Bhansali R R	1280	299	AFIPB2585H	A/601, Chandanbala Appts. Opp-Suvidhya Shopping Centre Paldi Ahmedabad 380007
2343	Riki Rajnikant Bhansali	1280	299	AFIPB2585H	27 New Market O/S Raipur Gate Ahmedabad 380002
2358	Riki R Bhansali	1280	299	AFIPB2585H	A/601, Chandanbala Appts. Opp-Suvidhya Shopping Centre Paldi Ahmedabad 380007
2368	Riki Rajnikant Bhansali	2560	598	AFIPB2585H	101 Shakuntal Appartment Opp C N School Ambawadi Ahmedabad 380006

The above multiple applications by the noticee can be summarized as below:

Name	No. of Appln	Alltd Shares	No of PAN	False PAN	Applns without PAN	No. of Adrs	Same Name & Address	Combination of Names
Riki Rajnikant Bhansali	19	5980	1	0	1	4	2+2+2+2	9

7. It has been observed from the above table that the noticee was allotted 5980 shares in 19 applications. As per SEBI (Disclosure & Investor Protection) Guidelines, 2000, Clause 1.2.1(xxiv a) "Retail Individual Investor" means an investor who applies or bids for securities of or for a value of not more than Rs.1,00,000/-.
8. It has been alleged that to circumvent the application quantity limit prescribed under the said clause for retail investor; the noticee had applied individually more than Rs.1 lakh value of shares through multiple applications, valued less than Rs.1 lakh per application in the retail category and deprived the prospect of equitable allotment of shares to the other retail investors. On the basis of aforesaid it has been alleged that the noticee has violated Regulation 3(a) and 3(c) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.
9. In response to the SCN Shri Yogesh Mafatlal Bhansali *inter alia* representing the noticee vide letter dated September 17th, 2008, submitted that the noticee had received two SCNs, one from the Adjudicating Officer and one from the SEBI Member for directions under Section 11 of SEBI Act, 1992. The noticee further submitted that it is case of double jeopardy and not tenable.
10. Vide letter dated November 26, 2008 Shri Yogesh Mafatlal Bhansali, *inter alia* representing the noticee and other family members, submitted a reply to the SCN. The reply to the SCN can be summarized as follows:
 - The noticee admitted that she had made more than one application in the IPO, however the noticee contended that the details contained in the said applications were not erroneous or false or intended to avoid weeding out as falsely alleged or otherwise.
 - It has been submitted that the SEBI (Disclosure and Investor Protection) Guidelines, 2000 do not define multiple applications or prohibit the same. It

has been further submitted that the DHRP, RHP and Prospectus stipulated that a bidder should make only one bid, the consequence that follows is that the issuer company reserves the right to reject the multiple bids. It has been further more submitted that multiple bids are not considered as an attempt to cheat or defraud the company and there is no penal consequence as such like forfeiture of the application money or automatic disqualification from allotment. It was furthermore submitted that there is a procedure for weeding out multiple bids in the RHP i.e. weeding out is done on the basis of Names, Age, PAN details, DP ID, Client ID and Address of applicants. All the applications submitted by the noticee contained the surname Bhansali and had common addresses and names and as per the above mentioned procedure, would have been identified as multiple applications/bids which clearly indicate that the issuer company, Representative of SEBI, Stock Exchanges and Registrar to the issue did not consider the said bids to be fraudulent or illegal. It has been submitted that the noticee had not disguised her applications/bids to escape weeding out of multiple applications/bid.

- It has been submitted that the definition of Retail Individual Investor as set out in the DIP Guidelines cannot and does not mean that multiple applications/bids are prohibited. It has been further submitted that the DIP Guidelines merely define who a Retail Investor is and prescribe quotas for such retail investors. There is no limit prescribed on the quantum of shares or value that a retail investor can apply, either in the DIP Guidelines or in the DRHP, RHP and Prospectus. The limit prescribed is on the number of shares per application and as there is no prohibition on making more than one application, only a discretion/right granted to the issuer company to reject multiple applications/bids.
- It has been submitted that the noticee has not deprived the prospect of equitable allotment of shares to other retail investors. It has been further submitted that according to the Basis of Allotment provided by the Company, in the retail segment, 10,049 applications for a total of 95,72,000 shares was received. The said segment was oversubscribed by 4.3 times. Their applications numbering 426 were for a total of 5,63,200 shares i.e. the Bhansali family's and HUFs applications taken together, amounted for 4.24% of the total no. of applications and the number of shares applied for was 5.88% of the total no. of shares applied for in the retail segment and their allotment was 92092 shares which is 4.12% of total numbers of shares under that category. On the basis of aforesaid facts the noticee has submitted that the number of applications and the number of shares applied for could never

have resulted in depriving the issuer company of an opportunity to equitably allot shares in the retail segment.

- It has been further submitted that their applications had a common surname and so there was no reason for the issuer company not to identify her applications as multiple applications. The noticee has submitted that it is obvious inference that the issuer company had identified their applications/bids as multiple applications/bids and instead of rejecting the same, allotted shares to them.

11. An opportunity of personal hearing was granted to the noticee on March 19, 2009. Mr. Joby Mathew, advocate attended the personal hearing held on March 19, 2009 and reiterated the submissions made in the reply dated November 26, 2008.

CONSIDERATION OF ISSUES AND FINDINGS THEREOF

12. After carefully examining the material on record, I am of the opinion that Adjudication and Proceedings under Section 11 of SEBI Act, 1992 are two different civil proceedings and principle of double jeopardy is not applicable on these proceedings.
13. On careful perusal of the reply submitted to the SCN, I note that the noticee has admitted that she has made multiple applications as Retail investor. However, I do not find that this is just a case of multiple applications. If it has been so, the noticee would have would have made all the applications in one name and one combination only, provided the same particulars in all the applications made by him. I find that the noticee made all the attempts to frustrate the categorization of her applications as multiple applications. This is evident from the following:
 - a) The noticee used 9 combinations of names.
 - b) The noticee has used four sets of addresses.
 - c) The noticee made 1 application without incorporating any PAN and also used false PAN.

In the light of above said, I am of the opinion that the noticee's contention that the details contained in the said applications were not erroneous or false or intended to avoid weeding out cannot be accepted. I am of the

opinion that the noticee's submission that her applications had a common surname and so there was no reason for the issuer company not to identify her applications as multiple applications further it is obvious inference that the issuer company had identified their applications/bids as multiple applications/bids and instead of rejecting the same, allotted shares to him, cannot be accepted.

14. Now I deal with the noticee's submission that there is no limit prescribed on the quantum of shares or value that a retail investor can apply, either in SEBI (Disclosure and Investor Protection) Guidelines, 2000 or in the DRHP, RHP and Prospectus. It is noted that Clause 1.2.1(xxivb) of DIP Guidelines defines Retail Individual Shareholder as follows:

1.2.1(xxivb) "Retail Individual Shareholder" means a shareholder of a listed company, who –

(a) ...

(b) applies or bids for securities of or for a value of not more than Rs. 1,00,000.]

From plain reading of the provision it can be gathered that retail individual shareholder is one who applies for a value of not more than Rs.1,00,000/-. It does not and cannot mean one who applies for a value of not more than Rs.1,00,000/- *per application*. It is also noted that noticee had applied for a value of more than Rs. 1,00,000/-. It is further noted that the noticee has admitted that she has applied for shares for a value more than Rs. 1,00,000/- through multiple applications. It is noted that each application was for value less than Rs. 1 lakh per application to fit in the retail category. It is further noted that to avoid weeding out the noticee used various combinations of names and addresses, as discussed in paragraph 13. Taking the above-said into consideration, I am of the opinion that the noticee through 19 applications has fraudulently applied for a value more than Rs. 1,00,000/- in the retail category reserved for Retail Individual Shareholder.

15. The submission of the noticee that she has not deprived the prospect of equitable allotment of shares to other retail investors cannot be accepted. I

am of the opinion that the noticee has unduly got more number of shares in the allotment, which could have gone to genuine Retail Individual Shareholder, had the noticee not used the unfair way of application.

16. In view of the foregoing and after carefully examining the replies dated September 17, 2008 and November 26, 2008, in response to the SCN dated May 02, 2008, I am of the opinion that the alleged violation of Regulation 3(a) and 3(c) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003 stands established, which read as under:

SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relation to Securities Market) Regulations, 2003

Prohibition of certain dealings in securities

3. No person shall directly or indirectly –

- (a) buy, sell or otherwise deal in securities in a fraudulent manner;*
- (c) employ any device, scheme or artifice to defraud in connection with dealing in or issue of securities which are listed or proposed to be listed on a recognized stock exchange;*

17. Having established that the noticee has violated the above said provision, I am convinced that it is a fit case to impose monetary penalty u/s 15HA of the SEBI Act, 1992, which read as under:

Securities and Exchange Board of India Act, 1992

Penalty for fraudulent and unfair trade practices.

Section 15HA - If any person indulges in fraudulent and unfair trade practices relating to securities, he shall be liable to a penalty of twenty-five crore rupees or three times the amount of profits made out of such practices, whichever is higher.

18. While deciding the quantum of penalty, the factors laid down under Section 15J of SEBI Act, 1992 have been given due regard, which are as follows –

- a) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of default;
- b) the amount of loss caused to an investor or group of investors as a result of the default and
- c) the repetitive nature of default.

19. It is noted that the noticee has made a profit of Rs. 3,31,292/- (Rs. Three Lakhs Thirty One Thousand Two Hundred Ninety Two only). I am of the opinion that the profit made by the noticee is a loss to investors. I am of the opinion that apart from the monetary loss to investors, incidences of this nature definitely compromise the securities market regulatory framework, to the detriment of investors at large. It is noted that there is no material on record to suggest that the lapse is of repetitive nature.
20. In view of the findings mentioned hereinabove and after taking into account the facts and circumstances of the case, I find that a monetary penalty of Rs. 3,50,000/- (Rupees Three Lakhs Fifty Thousand only) on the noticee viz. Riki Rajnikant Bhansali would be commensurate with the violations.

ORDER

21. In exercise of the powers conferred upon me under section 15-I (2) and 15HA of SEBI Act, 1992 read with Rule 5 of Adjudication Rules, I hereby impose a monetary penalty of Rs. 3,50,000/- (Rupees Three Lakhs Fifty Thousand only) on the noticee viz. Riki Rajnikant Bhansali, for violation of Regulation 3(a) and 3(c) of the SEBI (Prohibition of Fraudulent and Unfair Trade Practices Relating to Securities Market) Regulations, 2003.
22. The noticee shall pay the said amount of penalty by way of demand draft in favor of "SEBI- Penalties Remittable to Government of India", payable at Mumbai within 45 days of receipt of this order. The said demand draft should be forwarded to Shri S Ramann, OSD, Integrated Surveillance Department, Securities and Exchange Board of India, SEBI Bhavan, Plot No. C4-A, "G" Block, Bandra Kurla Complex, Bandra (East), Mumbai-400 051, INDIA.
23. In terms of Rule 6 of the said Adjudication Rules, copies of this order are sent to the noticee and also to the Securities and Exchange Board of India.

Date: 29.05.2009
Place: Mumbai

P. K. BINDLISH
ADJUDICATING OFFICER